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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/617,933	07/11/2003	Marty Guenther		3960

7590 05/14/2004

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EXAMINER	
GORDON, STEPHEN T	

ART UNIT	PAPER NUMBER
3612	

DATE MAILED: 05/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/617,933	GUENTHER, MARTY
	Examiner	Art Unit
	Stephen Gordon	3612

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *11 July 2003*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-10* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-10* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *11 July 2003* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *7-11-03*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. The disclosure is objected to because of the following informalities: reference to the relied upon provisional application should be included at the beginning of page 1 of the instant specification.

Appropriate correction is required.

2. Claims 1-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Re claim 1, the recitation of a "one piece crank" in line 6 and throughout the depending claims is confusing. The crank is defined as a bent bar, a roller, and end caps. It is not clear that such would define "one piece" as such.

Re claim 2, "said extension arm" should be –said extension arm portion—at each occurrence (2 places total) for consistency/clarity.

Re claim 4, the recitation that the crank is made by bending a single piece of bar stock is somewhat confusing as the crank is also characterized by a separate roller and end caps.

Re claim 5, the recitation of a "one piece crank" in line 6 and throughout the depending claims is confusing. The crank is defined as a bent bar, a roller, and end caps. It is not clear that such would define "one piece" as such.

Re claim 6, "said extension arm" should be –said extension arm portion—at each occurrence (2 places total) for consistency/clarity.

Re claim 7, the recitation that the crank is made by bending a single piece of bar stock is somewhat confusing as the crank is also characterized by a separate roller and end caps.

Re claim 8, the recitation of a "one piece crank" in line 6 and throughout the depending claims is confusing. The crank is defined as a bent bar, a roller, and end caps. It is not clear that such would define "one piece" as such. Additionally, , "said extension arm" should be –said extension arm portion—at each occurrence (2 places total) for consistency/clarity. Finally , "the extension arm" should be –the extension arm portion— for consistency/clarity.

Re claim 9, the recitation that the crank is made by bending a single piece of bar stock is somewhat confusing as the crank is also characterized by a separate roller and end caps.

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 5 and 7-9, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Chan.

Chan teaches a crank including an extension arm portion 58,60,52 (figure 3) for insertion into two opposing winch lug holes, an axle portion 64+, and a bent

section (between 62 and 64 – see figure 3 etc.) as broadly claimed and as best understood.

Re claim 7, Chan is made of welded sections of bar stock. To the extent that at least portions of the bar (e.g. handle 64) are made from a single piece of bar stock, the device is deemed to read on the instant claim as broadly recited and as best understood.

Re claim 8, see cap 48.

5. Claims 1, 3-5, and 7, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Salemno et al.

Salemno et al teaches a crank including an extension arm portion 52 (figure 4) for insertion into two opposing winch lug holes 32, an axle portion with a rotatable roller 64+, and a bend portion (at least between 56 and 60) as broadly claimed and as best understood.

Re claims 4 and 7, the device is deemed to read on the instant claim as broadly recited and as best understood.

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7. Claim 6, as best understood, is rejected under 35 U.S.C. 103(a) as being unpatentable over Chan.

Chan teaches all of the elements as discussed regarding claim 5 above and further teaches a cap 48 with an enlarged diameter. The reference is not clear as to how the cap is attached.

It is notoriously well known in the art to attach pieces via welding. Moreover, Chan further evidences this in that the handle 64 is disclosed as attached by welding.

Specific recitation then that the cap is welded would define a common attachment and would not define a patentable distinction over Chan in view of known art practices or the related teachings of Chan that at least the handle is welded.

8. Claims 2 and 10 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Note at least Depoy teaches a winch winding bar.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen Gordon whose telephone number is (703) 308-2556. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

5-6-04

Stephen Gordon
Primary Examiner
Art Unit 3612

stg